

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IN RE: ROSUVASTATIN CALCIUM	:	MDL No. 08-1949-JJF
PATENT LITIGATION,	:	
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ASTRAZENECA PHARMACEUTICALS	:	
LP, ASTRazeneca UK LIMITED,	:	
IPR PHARMACEUTICALS INC., AND	:	
SHIONOGI SEIYAKU KABUSHIKI	:	
KAISHA,	:	
:		
Plaintiffs,	:	
:		
v.	:	Civil Action No. 07-805-JJF-LPS
:		
MYLAN PHARMACEUTICALS INC.,	:	
:		
Defendant.	:	
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ASTRAZENECA PHARMACEUTICALS	:	
LP, ASTRazeneca UK LIMITED,	:	
IPR PHARMACEUTICALS INC., AND	:	
SHIONOGI SEIYAKU KABUSHIKI	:	
KAISHA,	:	
:		
Plaintiffs,	:	
:		
v.	:	Civil Action No. 07-806-JJF-LPS
:		
SUN PHARMACEUTICAL INDUSTRIES	:	
LTD.,	:	
:		
Defendant.	:	
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ASTRAZENECA PHARMACEUTICALS	:	
LP, ASTRazeneca UK LIMITED,	:	
IPR PHARMACEUTICALS INC., AND	:	
SHIONOGI SEIYAKU KABUSHIKI	:	
KAISHA,	:	
:		
Plaintiffs,	:	
:		
v.	:	Civil Action No. 07-807-JJF-LPS
:		
SANDOZ INC.,	:	
:		
Defendant.	:	
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ASTRAZENECA PHARMACEUTICALS :
LP, ASTRAZENECA UK LIMITED, :
IPR PHARMACEUTICALS INC., AND :
SHIONOGI SEIYAKU KABUSHIKI :
KAISHA, :
: Plaintiffs, :
: v. : Civil Action No. 07-808-JJF-LPS
:

PAR PHARMACEUTICALS INC., :
: Defendant. :
:-----

ASTRAZENECA PHARMACEUTICALS :
LP, ASTRAZENECA UK LIMITED, :
IPR PHARMACEUTICALS INC., AND :
SHIONOGI SEIYAKU KABUSHIKI :
KAISHA, :
: Plaintiffs, :
: v. : Civil Action No. 07-809-JJF-LPS
:

APOTEX CORP., :
: Defendants. :
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ASTRAZENECA PHARMACEUTICALS :
LP, ASTRAZENECA UK LIMITED, :
IPR PHARMACEUTICALS INC., AND :
SHIONOGI SEIYAKU KABUSHIKI :
KAISHA, :
: Plaintiffs, :
: v. : Civil Action No. 07-810-JJF-LPS
:

AUROBINDO PHARMA LTD. AND :
AUROBINDO PHARMA USA INC., :
: Defendants. :
:-----

ASTRAZENECA PHARMACEUTICALS	:
LP, ASTRAZENECA UK LIMITED,	:
IPR PHARMACEUTICALS INC., AND	:
SHIONOGI SEIYAKU KABUSHIKI	:
KAISHA,	:
	:
Plaintiffs,	:
	:
v.	:
	Civil Action No. 07-811-JJF-LPS
	:
COBALT PHARMACEUTICALS INC.	:
AND COBALT LABORATORIES INC.,	:
	:
Defendants.	:
	:
ASTRAZENECA PHARMACEUTICALS	:
LP, ASTRAZENECA UK LIMITED,	:
IPR PHARMACEUTICALS INC., AND	:
SHIONOGI SEIYAKU KABUSHIKI	:
KAISHA,	:
	:
Plaintiffs,	:
	:
v.	:
	Civil Action No. 08-359-JJF-LPS
	:
AUROBINDO PHARMA LTD. AND	:
AUROBINDO PHARMA USA INC.,	:
	:
Defendants.	:
	:
ASTRAZENECA PHARMACEUTICALS	:
LP, ASTRAZENECA UK LIMITED,	:
IPR PHARMACEUTICALS INC., AND	:
SHIONOGI SEIYAKU KABUSHIKI	:
KAISHA,	:
	:
Plaintiffs,	:
	:
v.	:
	Civil Action No. 08-426-JJF-LPS
	:
TEVA PHARMACEUTICALS USA,	:
	:
Defendant.	:

MEMORANDUM ORDER

WHEREAS, Plaintiffs filed a Motion To Strike Defendants' Proposed Findings Of Fact Nos. 150-152 (D.I. 458 in MDL No. 08-

1949; D.I. 218 in Civ. Act. No. 07-805; D.I. 221 in Civ. Act. No. 07-806; D.I. 237 in Civ. Act. No. 07-807; D.I. 214 in Civ. Act. No. 07-808; D.I. 253 in Civ. Act. No. 07-809; D.I. 335 in Civ. Act. No. 07-810; D.I. 266 in Civ. Act. No. 07-811; D.I. 197 in Civ. Act. No. 08-359; D.I. 201 in Civ. Act. No. 08-426) contending that Findings of Fact Nos. 150-152 interject new inequitable conduct theories not contained in the Joint Outline of Issues To Be Tried submitted in the parties' Joint Pretrial Submission;

WHEREAS, Plaintiffs also filed a Motion To Strike Mylan's Submission Of Expert Report To Supplement Record For Objection To Magistrate Judge's Claim Construction Ruling After The Court Adopted Ruling (D.I. 494 in MDL No. 08-1949; D.I. 238 in Civ. Act. No. 07-805), contending that the Court should not permit Mylan to "pad the record" for appellate review by filing an expert report by Dr. Bruce Ganem that was never submitted to Magistrate Judge Stark prior to ruling on claim construction;

WHEREAS, with respect to the first Motion advanced by Plaintiffs, the Court will permit proposed Findings of Fact Nos. 150-152 to stand, to the extent they relate to the question of improper reissue, but they will not be used to expand the parties' contentions as they relate to inequitable conduct;

WHEREAS, with respect to the second motion advanced by Plaintiffs, the Court concludes that this report was not part of

the record submitted to the Court in connection with claim construction, and therefore, the Court will not allow supplementation of the claim construction record at this late date;

NOW THEREFORE, IT IS HEREBY ORDERED that:

1. Plaintiffs' Motion To Strike Defendants' Proposed Findings Of Fact Nos. 150-152 (D.I. 458 in MDL No. 08-1949; D.I. 218 in Civ. Act. No. 07-805; D.I. 221 in Civ. Act. No. 07-806; D.I. 237 in Civ. Act. No. 07-807; D.I. 214 in Civ. Act. No. 07-808; D.I. 253 in Civ. Act. No. 07-809; D.I. 335 in Civ. Act. No. 07-810; D.I. 266 in Civ. Act. No. 07-811; D.I. 197 in Civ. Act. No. 08-359; D.I. 201 in Civ. Act. No. 08-426) is DENIED.

2. Plaintiffs' Motion To Strike Mylan's Submission Of Expert Report To Supplement Record For Objection To Magistrate Judge's Claim Construction Ruling After The Court Adopted Ruling (D.I. 494 in MDL No. 08-1949; D.I. 238 in Civ. Act. No. 07-805) is GRANTED.



UNITED STATES DISTRICT JUDGE
6/29/10